
STATUTORY INSTRUMENTS

1996 No. 1919

The Employment Rights (Northern Ireland) Order 1996

PART I

INTRODUCTORY AND INTERPRETATION

CHAPTER IV

A WEEK'S PAY

Employments with normal working hours

General

^{F1}17.—(1) This Article and Articles 18 and 19 apply where there are normal working hours for the employee when employed under the contract of employment in force on the calculation date.

(2) Subject to Article 18, if the employee's remuneration for employment in normal working hours (whether by the hour or week or other period) does not vary with the amount of work done in the period, the amount of a week's pay is the amount which is payable by the employer under the contract of employment in force on the calculation date if the employee works throughout his normal working hours in a week.

(3) Subject to Article 18, if the employee's remuneration for employment in normal working hours (whether by the hour or week or other period) does vary with the amount of work done in the I period, the amount of a week's pay is the amount of remuneration for the number of normal working hours in a week calculated at the average hourly rate of remuneration payable by the employer to the employee in respect of the period of twelve weeks ending—

- (a) where the calculation date is the last day of a week, with that week, and
- (b) otherwise, with the last complete week before the calculation date.

(4) In this Article references to remuneration varying with the amount of work done includes remuneration which may include any commission or similar payment which varies in amount.

(5) This Article is subject to Articles 23 and 24.

F1 mod. by SI 2004/1713

Modifications etc. (not altering text)

- C1** Arts. 16-24 applied (6.4.2006) by [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), regs. 2(3), 16(4), **Sch. 1 para. 11** (with reg. 21(1)(5), Sch. 1 para. 3)
- C2** Arts. 16-24 applied (6.4.2006) by [Service Provision Change \(Protection of Employment\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/177\)](#), **reg. 16(4)**
- C3** Arts. 17-20 applied (with modifications) (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016 \(S.R. 2016/49\)](#), regs. 1, **20(2)** (with reg. 22(1))

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C4 Arts. 17-20 applied (with modifications) (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016 \(S.R. 2016/49\)](#), regs. 1, **33(1)(c)** (with reg. 22(1))

Remuneration varying according to time of work

F²18.—(1) This Article applies if the employee is required under the contract of employment in force on the calculation date to work during normal working hours on days of the week, or at times of the day, which differ from week to week or over a longer period so that the remuneration payable for, or apportionable to, any week varies according to the incidence of those days or times.

(2) The amount of a week's pay is the amount of remuneration for the average number of weekly normal working hours at the average hourly rate of remuneration.

(3) For the purposes of paragraph (2)—

- (a) the average number of weekly hours is calculated by dividing by twelve the total number of the employee's normal working hours during the relevant period of twelve weeks, and
- (b) the average hourly rate of remuneration is the average hourly rate of remuneration payable by the employer to the employee in respect of the relevant period of twelve weeks.

(4) In paragraph (3) “the relevant period of twelve weeks” means the period of twelve weeks ending—

- (a) where the calculation date is the last day of a week, with that week, and
- (b) otherwise, with the last complete week before the calculation date.

(5) This Article is subject to Articles 23 and 24.

F2 mod. by SI 2004/1713

Modifications etc. (not altering text)

C3 Arts. 17-20 applied (with modifications) (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016 \(S.R. 2016/49\)](#), regs. 1, **20(2)** (with reg. 22(1))

C4 Arts. 17-20 applied (with modifications) (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016 \(S.R. 2016/49\)](#), regs. 1, **33(1)(c)** (with reg. 22(1))

C5 Arts. 16-24 applied (6.4.2006) by [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), regs. 2(3), 16(4), **Sch. 1 para. 11** (with reg. 21(1)(5), Sch. 1 para. 3)

C6 Arts. 16-24 applied (6.4.2006) by [Service Provision Change \(Protection of Employment\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/177\)](#), **reg. 16(4)**

Supplementary

F³19.—(1) For the purposes of Articles 17 and 18, in arriving at the average hourly rate of remuneration, only—

- (a) the hours when the employee was working, and
- (b) the remuneration payable for, or apportionable to, those hours,

shall be brought in.

(2) If for any of the twelve weeks mentioned in Articles 17 and 18 no remuneration within paragraph (1)(b) was payable by the employer to the employee, account shall be taken of remuneration in earlier weeks so as to bring up to twelve the number of weeks of which account is taken.

(3) Where—

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- (a) in arriving at the average hourly rate of remuneration, account has to be taken of remuneration payable for, or apportionable to, work done in hours other than normal working hours, and
- (b) the amount of that remuneration was greater than it would have been if the work had been done in normal working hours (or, in a case within Article 1(3), in normal working hours falling within the number of hours without overtime),

account shall be taken of that remuneration as if the work had been done in such hours and the amount of that remuneration had been reduced accordingly.

F3 mod. by SI 2004/1713

Modifications etc. (not altering text)

- C3** Arts. 17-20 applied (with modifications) (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016 \(S.R. 2016/49\)](#), regs. 1, **20(2)** (with reg. 22(1))
- C4** Arts. 17-20 applied (with modifications) (28.2.2016) by [The Working Time Regulations \(Northern Ireland\) 2016 \(S.R. 2016/49\)](#), regs. 1, **33(1)(c)** (with reg. 22(1))
- C7** Arts. 16-24 applied (6.4.2006) by [Transfer of Undertakings \(Protection of Employment\) Regulations 2006 \(S.I. 2006/246\)](#), regs. 2(3), 16(4), **Sch. 1 para. 11** (with reg. 21(1)(5), Sch. 1 para. 3)
- C8** Arts. 16-24 applied (6.4.2006) by [Service Provision Change \(Protection of Employment\) Regulations \(Northern Ireland\) 2006 \(S.R. 2006/177\)](#), **reg. 16(4)**

Changes to legislation:

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Changes and effects yet to be applied to the whole Order associated Parts and Chapters:

- Act applied with modifications by [S.R. 2023/156 reg. 15](#)

Whole provisions yet to be inserted into this Order (including any effects on those provisions):

- Pt. 7A inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 1](#)
- Ch. 5 inserted by [2022 c. 27 \(N.I.\) s. 1\(1\)](#)
- art. 21(4B) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 2](#)
- art. 23(1)(zza) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 3](#)
- art. 70F inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 4](#)
- art. 70G inserted by [2020 c. 7 Sch. 7 para. 20](#)
- art. 71(1C) inserted by [2020 c. 7 Sch. 7 para. 21\(a\)](#)
- art. 72(8) inserted by [2020 c. 7 Sch. 7 para. 22\(b\)](#)
- art. 85ZS(3)(a)-(c) substituted for words by [2022 c. 18 \(N.I.\) Sch. 3 para. 47\(4\)](#)
- art. 95F(5A) inserted by [2016 c. 15 \(N.I.\) Sch. 2 para. 32](#)
- art. 135E inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 6](#)
- art. 135G inserted by [2020 c. 7 Sch. 7 para. 25](#)
- art. 137(6D) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 7](#)
- art. 137(7N) inserted by [2020 c. 7 Sch. 7 para. 26\(b\)](#)
- art. 140(3)(fj) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 8](#)
- art. 140(3)(fl) inserted by [2020 c. 7 Sch. 7 para. 27](#)
- art. 143(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 9](#)
- art. 144(2)(ddd) inserted by [2011 c. 13 \(N.I.\) Sch. 3 Pt. 2 para. 10](#)